

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

Vs.

Cr. No. 21-01931 WJ

ROBERT GUTIERREZ,

Defendant.

**RESPONSE TO THE DEFENDANT'S MOTION TO MODIFY CONDITIONS OF
RELEASE [DOC. 28]**

THE United States by and through its counsel, Presiliano Torrez, Assistant United States Attorney, hereby responds to the defendant's motion to modify conditions of release as follows:

1. The United States filed an indictment charging assault upon a federal employee involving infliction of bodily injury. [Doc. 15]
2. The defendant was released from custody and is under the supervision of pretrial services pending trial since December 8, 2021. [Doc. 13]
3. As part and parcel of his conditions of release the defendant was ordered not to have contact with the alleged victim in this matter, C. K. a mail carrier for the United States Postal Service.
4. The allegations in the indictment alleged that the defendant struck and knocked the postal carrier unconscious because of a disagreement over the delivery of a package.

5. The defendant alleges that the victim in this case seeks his friendship and that the order of no contact issued by the court is not applicable and should be disregarded.

6. The defendant further alleges that the victim has been seen driving up and down his street slowly, presumably looking for the defendant.

7. The United States inquired into the matter and states that the victim responds emphatically that he has not been driving through the defendant's neighborhood other than in his mail car to deliver other people's mail on the street. He denies the defendant's allegations raised in his motion.

8. The United States post office after the incident did not immediately change the victim's route for various personnel and labor restrictions.

9. As of last week, the victim will no longer be covering the defendant's street at all in the course of making deliveries for the United States Post Office.

10. This should eliminate any possibility that the defendant would be found in violation of the Court's no contact order.

11. Hence, the United States believes that the no contact order should remain intact.

WHEREFORE, the United States request that the defendant's motion to modify conditions of release in this matter be denied.

Respectfully submitted,

FRED J. FEDERICI
Acting United States Attorney

/s/
PRESILIANO A. TORREZ
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I HEREBY CERTIFY I filed the
foregoing pleading electronically
through the CM/ECFsystem, which
caused counsel of record to be served by
electronic means on this date.

/s/

PRESILIANO TORREZ
Assistant United States Attorney